

**PLANNING BOARD MEETING MINUTES
TUESDAY, SEPTEMBER 26, 2006**

MEMBERS PRESENT: Jay Cruz, Chair
Paula Caron, Vice-Chair
Yvette Cooks (associate member)
John DiPasquale
Paul Fontaine, Jr.
Mike Hurley
Linda Nicholopoulos
Nancy Maynard

PLANNING OFFICE: David Streb, Mike O'Hara

Call to Order

Meeting called to order at 6:00 p.m. in the Veteran's Room, First Floor, City Hall.

Communications

Advised the board that Mike O'Hara was at Conservation Commission meeting.

NWRA Award letter re: Steam Line Trail in West Fitchburg received.

Ms. Caron suggested ordering stamp for stamping ANR plans with "Approval of this ANR doesn't constitute approval under zoning" or similar language.

Meeting Minutes

Minutes of August 7th and 15th meetings were approved as corrected, and passed unanimously.

ANR plans

The Board reviewed and endorsed the following seven "ANR" plans:

Seney, Ashby State Rd.

Re-subdividing several adjoining parcels in same ownership into five conforming lots. Existing house on proposed Lot 3 to be torn down.

Donnelly, Rinnock Rd.

Re-subdivision. Applicant purchasing Parcel B2 (split from new dwelling at 1164 John Fitch Hwy.) & combine with Parcel B3 (split off from 72 Rinnock Rd.) to make intended building lot. Will have to file NOI for development of lot.

Remal, 859 Pearl Hill Rd.

Plan splits 5,290 sq. ft. sliver from adjacent 172 acre parcel (n/f Bingham) to be incorporated into 3 acre parcel at 859 Pearl Hill Rd.

Stewart, 47 Bond St.

Conforming Lot 2 split from parcel.

Bridle Cross Realty Trust, Rollstone Road

Slight change in the "phase lines" of condo project under construction. Reconfigures former Parcels 191-11A & 11B into Parcels 191-11C & 11D.

Romano, 131-133 Albee St.

Splitting off a vacant conforming Lot 2 fronting on Fairlawn Street. Remaining Lot 1 (#131-133 Albee St.) received Variance recently for reduction of lot area.

Simonds, Intervale Rd.

Splitting off conforming Lot 1 with Simonds buildings. Remainder Parcel A partially in Lunenburg, not a building lot. In Note 7 – reference made to “Leominster” and should be “Lunenburg”. Board voted to authorize David Streb to sign plan after correction is made.

OTHER BUSINESS

Request by JCJ's attorney James Cahn dated 9-26-06 for extension of Special Permit #04-21 submitted to Board. They are closing on property soon. Three-year period would end soon. They have been working on getting MEPA review, sewer extension, etc.

Moved & seconded to grant extension to Special Permit #04-21 to 12/1/2009.

MINOR SITE PLAN REVIEW

53 Middle St., Flea Market (former DiCaria's Market)

No one showed for this project, so it was postponed to next meeting.

Paul Fontaine, Jr., and John DiPasquale recused themselves and left the room.

615 South Street, Fontaine

Voting members present: Jay Cruz, Paula Caron, Mike Hurley, Linda Nicholopoulos, Nancy Maynard

Action: Approved 5-0.

Paul Fontaine, Sr., presented and provided a parking plan which shows 19 lined and 4 unlined spaces. These comply with zoning. Mr. Cruz asked what the purpose was and was told that it would be a professional office building. Jeremy Daly's company will move in the new space. Added 980 square feet. This plan was approved 5-0.

280 Lunenburg St., Dry Cleaners

Voting members present: Jay Cruz, Paula Caron, John DiPasquale, Paul Fontaine, Jr., Mike Hurley, Linda Nicholopoulos, Nancy Maynard

Action: Continued to October 17th meeting.

Three storefronts in front, restaurant will be on left. Not changing footprint of building, just the use of the unit on the left. Mr. Fontaine has a problem with the lack of an engineered plan. There will be no seating, take-out only. Parking lot needs to be repaved and restriped. Discussion among members regarding need for an engineered plan. The Board would like to see an engineered plan, parking lot pavement resurfaced and striped, handicapped space added in front of the restaurant (for a total of 2 handicap spaces), and an enclosed dumpster. The two rectangles on the plan at Lunenburg St. – are they planters? Defined entrances should be shown on the plan. A detailed list of the aforementioned board requirements is to be given to applicant in writing. Continued to October 17th meeting.

Boulder Drive, Sovereign Bank

Voting members present: Jay Cruz, Paula Caron, John DiPasquale, Paul Fontaine, Jr., Mike Hurley, Linda Nicholopoulos, Nancy Maynard

Action: Approved 6-0.

Replacing bank drive-up machines with ATM. Fence along back to be replaced with black chain link. Motion made and seconded to approve Site Plan subject to condition - new black chain link fence at rear of property adjacent to river, min. six feet high.

PUBLIC HEARINGS

Special Permit renewal - Bay Communications, wireless communications tower,

609 Wanoosnoc Rd. (hearing opened 4-18-06, postponed from 7-18-06)

Item had been postponed to September 26th meeting at request of applicant.

Voting members present: Jay Cruz, Yvette Cooks, John DiPasquale, Paul Fontaine, Jr., Mike Hurley, Linda Nicholopoulos, Nancy Maynard

Action: Continued to October 17th meeting.

Atty. Ed Pare presented a history of past meetings (on behalf of Bay Communications). He stated that Bay had made a good faith offer of \$10,000 to the city for paving & to fix the depression to the north of the culvert. He asked that the Board not put a time limit on the Special Permit extension. If the \$10,000 is something the City will accept, they ask that time limits be consistent with other approvals. He doesn't feel that other approvals have time limits.

Mr. DiPasquale: Who says that Bay Communications didn't cause the damages?

Atty. Pare: They assert that there are no damages.

David Streb: personnel in Engineering assert that the bridge has been damaged. Also, DPW Commissioner said that he considers any utility vehicle a construction vehicle.

Board reviewed DPW Commissioner's memo dated 9-25-06. Bay has offered to pay up to \$10,000 and to provide steel plate. Denis Meunier still concerned that \$10,000 and steel plate does not adequately cover cost of damages to road and is not long-term solution. He recommends:

- Bay does reinforced concrete slab spanning top of existing culvert. City to provide Bay w/specs.
- Bay to top coat approx. 14' x 120' area just before culvert.

David Streb also said that he spoke to the Commissioner, and that the Commissioner said that the recommendations contained in the letter were the city's bottom line.

Mr. Cruz wants to have the City Solicitor sit in on negotiations between the DPW and Bay Communications.

Hearing continued until October 17th.

Steven Holt, 152 Olin Ave. – as a point of clarification, Bay's study was done in 2004 and the damage occurred after the study was done. Special Permit continued to October 17th. Ms. Caron abstained.

Special Permit - Bribern, LLC Mill conversion - "Newport Lofts", 25 Newport St.

Voting members present: Jay Cruz, Paula Caron, Yvette Cooks (associate member), John DiPasquale, Paul Fontaine, Jr., Mike Hurley, Linda Nicholopoulos, Nancy Maynard

Action: Approved 7-0.

Hearing opened 7:50 p.m. Present were Brian DeVellis, Larry Greene, Thompson-Liston Associates. Brian DeVellis showed colored plan showing Vogue building removed and access from Airport Road with retail buildings along Airport Road. They have Vogue under P&S agreement and their lawyers need to know if this is an approvable project.

Public Comment:

Dave Gagne, 18 Newport Street – Does this involve tearing down Vogue building?

Answer: Yes, removing 55,000 square feet and building 19,100 square feet.

Ron Dionne, Pacific St. – Is there hazardous waste?

Answer: There's some asbestos, a 15,000 gallon oil tank and there's monitoring wells from an old spill. It's a clean site.

Ms. Caron – The dilapidated, fire-damaged building on the abutting parcel– can it be removed?
Yes, they will, they have permission.

Dave Gagne – What will be price of condo units? Answer: approximately \$200,000 per unit

Mr. Fontaine – Two divided lights, 6 over 6 windows are planned. Also sandblasting and repointing the brick exterior of the building. Also, do we need additional money for the Bemis/Airport Rd. signals? He has no problem with the landscaping similar to what's shown in the pictures.

Mark Saavedra, 17 Newport St. – How many feet will the nearest unit be to the abutting property?
Answer: 115 feet. Devellis will berm up along that edge and plant on top.

Mr. Fontaine stated he believed that the developer's contributions as part of conditions of approval for Arden Mills project would break down to \$1,000 per unit+/- . He'd like to see concrete sidewalks and granite curbing to Bemis/Airport intersection. \$50,000 to a trust fund.

Brian Devellis asked if a 49th unit could be approved.

Dave Gagne – wouldn't it be appropriate to develop a sidewalk to Bemis Road? Board: Yes.

Mr. Fontaine – Is there any possibility of a river trail along the Nashua? Brian Devellis Maybe.

Brian Devellis showed a plan that the rail line thru site was abandoned.

Ms. Caron – Can it be clarified that if the project was approved as presented – allowing a residential and commercial use on industrial zoned parcel, that industrial uses are still allowed “by right”? Basically, industrial uses could be located in the proposed new commercial building space?

Brian Devellis – The underlying zoning of a parcel takes precedence, therefore in this case, industrial uses would be allowed.

Motion made (Mr. Fontaine) and seconded to approve the Special Permit subject to the following conditions:

- Subject to Fire Department approval
- Revisions made to plan: preserving the mature pines in rear parking area, parallel to Newport Street, relocate mature plantings in proposed landscaping frontage to outside of public way, parking to be re-aligned.
- Renovation or repainting of the exterior of the rear service building.
- Repoint or sandblast brick facade
- New windows to retain original architectural detail per discussion
- Facade of commercial similar to photo submitted
- (If possible), provide trail (open to public) along Nashua River along the boundary of the Parks-Cramer property (or all the way to site to Bemis Rd?) , including possible handicap accessibility
- Donation of \$100K or in-kind work, to be directed as determined by Planning Board. (i.e. city infrastructure or improved public access to recreational areas (riverfront and/or rail trail projects).
- Increase to 49 residential units
- Demolish & remove fire damaged structure on abutting parcel (with owner permission)
- \$500,000 bond

Vote 7-0 to approve Special Permit.

Preliminary Subdivision Plan - Bribern, LLC, "Balsam Manor" Fisher Rd.

(hearing opened 8-15-06, cont'd from 8-15-06)

Voting members present: Jay Cruz, Yvette Cooks (associate member), John DiPasquale, Paul Fontaine, Jr., Mike Hurley, Linda Nicholopoulos, Nancy Maynard

Action: Approved 7-0.

Hearing re-opened 8:30 p.m.

Brian DeVellis presented plan showing relocation of proposed subdivision road to pull it away from Dupuis property to the north. Now back of vacant house is 100 feet away from the property line. That will allow them to keep the existing tree line. They'll condition deeds to prohibit tree cutting.

Some neighbors want sewer tie-ins. BriBern willing to do that. They will provide a written survey to residents and provide the results of the survey to the city to document those who want sewer tie-ins and those that do not.

Mr. Cruz said neighbors want sidewalks so people can walk. Interior sidewalks will be required. He asked how long it will take to build this?

Brian DeVellis: They have 4,000 ft. of sewer to run in Fisher Road, that'll take some time. If prelim. plan is approved tonight, he may start clearing before winter. They don't anticipate blasting at this time. They'd be willing to put in a gate.

Q: Would applicants be willing to make improvements to Fisher Road?

A: They'd be willing to pave it, not widen it.

They'd need information from DPW on suggested improvements & need to verify that it's not a scenic road.

Mr. Cruz would like to see a buildout scenario for the area under current zoning -- how many lots possible?

Public comment:

Letter dated 9-25-06 signed by several abutters summarizing their concerns was submitted to the Board. John Sulin, 861 Fisher Road, right across from the project. He has a lot of ledge and is worried about his 7-foot deep well.

Brian DeVellis: They'd do a pre-blast survey, including a water quality test for residents and replace the well if it goes dry.

David Dupres, address? – He doesn't have an agreement yet with BriBern, they've only discussed it.

Naomi Andrews, 940 Fisher Rd. – What guarantee will she have that a swamp won't be created. The ground itself has tons of water it can hardly handle. How will detention basin infiltrate water if there is high groundwater?

Brian DeVellis: They'll do a drainage study and look at the overall drainage pattern of the whole site.

Naomi Andrews: What if it doesn't work? Answer: We'll have a bond to fix it. She also wanted to know what kind of notice will be given if they blast; she needs more than a day as she needs to sedate her horses (at her expense).

Brian DeVellis told her yes they would look into it and provide her more than one days notice.

Ms. Caron recommended that they ensure their contractors use perchlorate-free blasting materials.

Leroy Clark, 986 Fisher Rd. - There's no way surface water can be handled by the detention ponds as shown on the preliminary plan.

Nancy Lagasse, Lunenburg – Why wasn't she notified? She's concerned about water affecting her property.

Mr. Fontaine suggested that an association could be formed to maintain the detention basin.

Nancy Lagasse said an area on her property adjacent to the proposed project is wetland but wasn't flagged. Proposed detention pond will be a safety issue.

Leroy Clark reiterated his concerns about drainage.

A lot of deer, fox and turkey won't be able to live there if they cut down the trees.

Mr. Fontaine – Applicants can create 23 lots "by right" with conventional subdivision, but they're proposing 22 lots. They're also asking for waivers of some standards in Subdivision Regulations -- including exceeding roadway grade, length of dead end road, number of lots without a second exit.

Joe Poznik, 840 Fisher Rd. – He'd like to see a plan before and after of the road change.

Norman Champagne, 325 New West Townsend Rd. – Conservation Commission should focus on the proposed lot 7 area.

Joann Martin, 786 Fisher Road – Fisher Road is real narrow. What will this project do to the traffic?

Leroy Clark – people were upset when Fisher Road was re-paved recently because traffic went faster

Motion made & seconded to approve Preliminary Subdivision Plan. Vote unanimous to approve.

Ms. Nicholopoulos and Ms. Caron left meeting.

Minor modification to PUD- Bovenzi, Chamberlain Hill Condominiums, Franklin Rd.

Voting members present: Jay Cruz, Yvette Cooks (associate member), John DiPasquale, Paul Fontaine, Jr., Mike Hurley, Nancy Maynard

Action: Approved 6-0.

Peter Bovenzi presented minor change to Road "B" in development. Will be known as Patriot Road. Switching from five six-unit buildings to 10 three-unit buildings -- still a total of 30 units. Road "B" will be a dead-end -- not go thru to Franklin Road. Memo from Steve Morand, Fitchburg Fire, stating his concerns was reviewed. Bovenzi is under discussion with Fire & Water about providing additional access to Chamberlain Hill, and improving water pressure area in area.

Motion made & seconded to approve as minor modification, as shown on plan dated Aug. 29, 2006 subject to comments in Deputy Chief Morand's letter dated 9-23-06 concerning alternative secondary emergency access, and water supply.

Special Permit - McSweeney, Oakland St., two 3-family dwellings (NEW APPLICATION)

Voting members present: Jay Cruz, Yvette Cooks (associate member), John DiPasquale, Paul Fontaine, Jr., Mike Hurley, Nancy Maynard

Action: Approved leave to withdraw and waiver of fees 6-0.

Hearing opened.

McSweeney would prefer to go with a version of the original proposal which was single-family houses. He ran the concept by the Board of three single-family dwellings on Oakland and two on Linwood with open space to the rear. It would be a PUD and a condominium form of ownership. He'd like to come forward with the plan.

Nancy Fireman read a letter about issues raised by abutter who could not stay that late.

Motion made (Mr. Fontaine) & seconded moved to give leave to withdraw of the second Special Permit application (two three-family dwellings) and to waive the fees for a third Special Permit application (to be filed) for a PUD consisting of five single-family condos.

Special Permit - Edgewater Construction – infill lots (3)

- 162 High Street
- 0 Nutting St.
- 58 Simonds (corner Simonds & Nutting)

Voting members present: Jay Cruz, Yvette Cooks (associate member), John DiPasquale, Paul Fontaine, Jr., Mike Hurley, Nancy Maynard (6)

Action: Continued to October 17th meeting.

Hearing opened at 9:55 p.m.

In light of the time, Atty. Watts is presenting all three applications at once. Each of the three lots is over 5,000 square feet. Proposing houses with approx. 1,200 sq. ft of living space. He read aloud from a letter from a resident at 8 Nutting Street that bought a small, starter home. This is the type of dwelling they plan on constructing.

High Street site will have a drive-in garage.

0 Nutting Street site has ledge. He proposes to build a slab in grade and will minimize blasting.

Public comment:

Councilor Ted DeSalvatore – His constituents have expressed dismay about building on ledge. Concerned about collateral damage.

Kathleen & Robert Everbeck, owners of 5 Nutting Street. Their property abuts Simonds & Nutting site. Had submitted letter dated 9-25-06 to the Board (Board had copies) referencing their deeded right-of-way across proposed infill lot. They assert that the ROW area 746.5 sq. ft. should be subtracted from the infill lot size, therefore lot size is insufficient - less than 5,000 sq. ft.

Atty. Watts doesn't agree. The ROW area is included in the lot area; lot size is still over 5,000 sq. ft.

Atty. Watts described the process for blasting.

Otis Mangrun, 43 Nutting St. had concerns with lot across street (0 Nutting). Wants no blasting. There's no alternative to blasting that would not cause problems. There's a huge piece of solid ledge on site that goes directly into several foundations. Years ago water pipes were laid directly on top of ledge. Also, gas mains are very fragile -- lots of gas leaks in area. Blasting would cause lots of problems. Also, a lot of water is on this hill. If they blew this ledge, they'll get water in their basements.

Bob Panes & Sharon Cerulli, 26 Nutting St. - They are opposed. Their house is on that ledge and they're concerned.

Annie DiMartino, 17 Nutting St. – A lot of water comes from off this hill.

Letter received from Matthew Moore & Jamie Merrill, 42 Nutting Street, abutting 0 Nutting, objecting to proposed infill at 0 Nutting.

Letter received from Mr. & Mrs. George Stewart, 15 Nutting Street, objecting to two more dwellings on Nutting St. Fragile gas lines, blasting would create problems.

Letter received from Bruce & Norma Goss, 30 Nutting Street, objecting to proposed infill.

All three Special Permit hearings were continued to the next meeting, October 17th.

Yvette Cooks left the meeting.

OTHER BUSINESS

Bruce St. Rollstone St. subdivision - Lot Release request

Property (8 lots) has been sold from Bovenzi to Edgewater Construction (Ketola)

Atty. Tom Gibbons, representing Edgewater, asking for 3 lots to be released. Mr. Cruz said he wants a \$10,000 bond to ensure a good job gets done.

Developer offered to instead release only 2 lots. Board agreed to release 4A and 5A and authorized David Streb to sign the revised release.

Atty. Gibbons requested a letter from the Planning Board regarding release of funds for the Bishop and Castle subdivision (Windsor Heights). It was pointed out that there are still problems with another Conrad Donnell subdivision nearby, off Westminster Hill Road. Time period for completion of this subdivision has lapsed & Planning Board subdivision approval has been automatically rescinded. Site continues to have runoff onto road, site needs to be stabilized.

Atty. Gibbons stated that owner of the Westminster Hill Road subdivision was a different realty trust that the Windsor Heights subdivision. Board deferred action until next meeting.

Meeting adjourned: 11:00 p.m.

Next meeting: October 17, 2006

Minutes approved: 10-17-08